IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8139 of 1995

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

AHMEDABAD MUNICIPAL CORPORATION

Versus

RAGHUBHAI VITHALBHAI

Appearance:

1. Special Civil Application No. 8139 of 1995

MR D.C.RAVAL with MR MR ANAND for Petitioner No. 1

MR LN MEDIPALLY for Respondent No. 1

MR MAHESH B BARIYA for Respondent No. 1

MR BG PATANI for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 20/01/2004

ORAL JUDGEMENT

Heard learned advocate Mr. D.C.Raval appearing

on behalf of the petitioner and learned advocate Mr. L.N.Medipally appearing on behalf of respondent No.1.

2. This petition is directed against the award of the Labour Court dated 22.9.1994 by which respondent has been reinstated on finding that termination of service was invalid being in violation of Section 25F of the Industrial Disputes Act with 25% back wages.

3. Having perused the award and heard learned counsel for the petitioner and respondent, I find that no error on the fact of record can be found. It is not denied that services of the petitioner were terminated on 12.6.1982 while he was employed by the petitioner as Safai Karamchari for cleaning work at various chawls. It is also not the case of the petitioner that compliance with the provisions of Industrial Disputes Act have been made. The defence taken in written statement to the claim filed by the employer was that concerned employee was employed in the Chawl Safai Aarogya Department and he was responsible for cleaning the Upadhyay chawl, Ichhabhuvan chawl, Bela Apartments, Kokil Apartments, Damodar Chawl, but, according to report Damodar Chawl and Ichhabhuvan Chawl are not in existence and Kokil Apartments are still under construction and not occupied by residents. The Tribunal has found that before dismissal if the termination is to be treated as dismissal, no enquiry has been held. The evidence of the petitioner referred in the order goes to show that respondent employee was working under contract for cleaning Damodar Chawl, Kokil Apartments and Ichhabhuvan Chawl. One fails to understand that if all these places were not existent how the Corporation has given contract for cleaning the same. Thus, in the facts and circumstances, no interference in the award made by the Tribunal is called for.

4. The petitions fails and is hereby dismissed. Rule is discharged. No costs.

(H.K.Rathod,J)

Jayanti*